

SMARA UPDATE



The Quarterly Newsletter of the Department of Conservation - Office of Mine Reclamation

OMR TO CONTINUE ITS OUTREACH EFFORTS

In keeping with its commitment to work cooperatively with local lead agencies and others involved with SMARA, the Office of Mine Reclamation has developed a tentative schedule of workshops for the 1999 calendar year.

Because SMARA is designed to be implemented at the local level with state oversight, one of the most important services that the Department of Conservation can provide is direct assistance to improve the capacity of local agencies to administer the law.

The department recognizes the difficulty local agencies face in implementing such a complex law, and the competition among programs at the local level for staffing and scarce financial resources. With a diverse team that includes expertise in engineering, planning, compliance, and various scientific fields, OMR is uniquely qualified to help local planners, consultants, and mine operators with all phases of the mine reclamation process.

Over the last three years, OMR has conducted 10 SMARA overview workshops, three workshops dealing with exemptions to SMARA, one inspection and cost estimating workshop, three mine safety and hazard recognition workshops, and three lead agency presentations. Our office has been pleased with the response the workshops have received both in attendance and customer satisfaction. Post-workshop surveys have been positive about the effort, and have been important instruments in helping us design this year's workshop series.

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SMGB Issues 45-Day Notice to El Dorado

At its January 14, 1999 regular business meeting, the State Mining and Geology Board issued a 45-Day Notice to Correct Deficiencies to El Dorado County following a recommendation from its policy committee. At a policy committee meeting in Sacramento on December 17, 1998, the committee received numerous complaints from residents of the county who expressed concern about El Dorado County's SMARA enforcement record. The SMGB has received complaints regarding the county's administration and enforcement of the Surface Mining and Reclamation Act for the past two years. The committee also recommended the approval of the "Fourth Report and Findings Regarding El Dorado County's SMARA Compliance" at the same meeting.

El Dorado County has hired outside legal counsel and a consulting firm to address these citizen complaints as well as complaints registered by the Department of Conservation. Following presentations to the

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OMR to Continue Its Outreach Efforts

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Firm dates and locations for this year's workshops are:

SMARA Overview:
March 19, Sacramento
March 24, Riverside

Review of Reclamation Plans:
 May 7, Sacramento

Mine Safety and Hazard Recognition:
 November 17, San Luis Obispo

Due to its popularity, another workshop for SMARA inspections is being planned for October in Monterey, while San Diego has been chosen for a second Review of Reclamation Plans workshop in June. Exact dates and locations for these workshops will be announced in a future SMARA Update. We are especially delighted at the prospect of a workshop in San Diego. The San Diego/Imperial region is home to a number of important mining operations, and this will be OMR's first workshop in that part of the state. The choice of San Diego is a direct outcome of survey information provided by local SMARA partners.

At the request of the U.S. Forest Service, OMR will also conduct a four-hour class on reclamation techniques and SMARA coordination at the Forest Service's Lands and Minerals University scheduled for Reno in late March. In addition, we plan to exhibit at the California Chapter

of the American Planning Association in September (location yet to be announced).

If you are interested in attending one or more of the workshops, or would like more information, please contact Andrew Rush at (916) 323-9198. Continuing past policy, this year's workshop series will be presented at no cost to participants. We look forward to seeing you there.

*Glenn Stober,
 Assistant Director*

SMGB Issues 45-Day Notice to El Dorado County

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SMGB by the county's outside counsel and consultants, and after receiving statements made by the residents, the SMGB unanimously voted to issue the 45-Day Notice to Correct Deficiencies to the county. This notice was issued pursuant to PRC §2774.4.

According to SMARA, the county has 45 days to correct, to the satisfaction of the SMGB, the deficiencies cited by the SMGB in its notice. If the deficiencies are not corrected, then the SMGB may hold a hearing to determine if it should assume some or all of the county's SMARA lead agency responsibilities. The notice was sent to the county on February 12, 1999.

*John Parrish, Ph.D.
 Executive Officer*

Mineral Classification Workshop

The California Department of Conservation's Division of Mines and Geology will hold a public workshop on Wednesday, March 31, 1999, at the San Benito County Administration Office, Board of Supervisors Chambers, 481 Fourth Street, Hollister.

Department officials will present and take comments on the draft report "Update of Mineral Land Classification: Aggregate Materials in the Monterey Bay Production-Consumption Region" (Open-File Report 99-01). When completed, the report will review the availability of present aggregate resources and forecast the demand for aggregate to the year 2047.

Workshop participants may purchase copies of the earlier classification report (Special Report 146, part IV) by contacting the DMG Geologic Information and Publications Office at (916) 445-5716.

*Rinda Etzold,
 Staff Analyst
 Division of Mines and Geology*

RCU Staff Given Territorial Assignments

In response to comments received during the department's strategic planning effort, the Office of Mine Reclamation's Reporting and Compliance Unit (RCU) staff assignments have been restructured to better serve local lead agencies, mine operators, and the general public. RCU staff have been given responsibility for specific areas of the state, and will be the lead SMARA contact for reporting and compliance issues. We expect this to result in staff becoming more familiar with their assigned lead agencies' ordinances and local issues, thereby improving our service and providing greater consistency in communicating the department's compliance and enforcement policies.

The new assignments primarily affect the RCU's compliance engineers. They are Cam Downey, Pam Ceccarelli and Tim Kustic. The assignments are by county, with each engineer being assigned a similar number of counties throughout the state. City lead agencies are assigned to the same engineer as the county in which they are located. A map identifying which counties are assigned to which engineer is enclosed with this newsletter. Questions and issues regarding enforcement or compliance matters will be directed to the engineer assigned to the county in which the lead agency or operator is located. Issues regarding the AB 3098 List will

continue to be directed to Adele Lagomarsino.

*Andrew Rush,
Environmental Specialist*

Reclamation Tips



CONTAINERIZED SEEDLING SOURCE

California native plants are an important component of successful mine reclamation. Experience has shown that native plants adapted to a particular area are more likely to be self sustaining, thereby minimizing replanting and maintenance costs. Given a good soil, native plants generally require little or no fertilizer or irrigation to become established, when planted at the optimal time of the year. When soil conditions are less than optimal, native plants will generally perform better in the long term.

To assist miners in locating sources of native plants, the Office of Mine Reclamation publishes Nursery Sources for California Native Plants. The publication identifies 118 nurseries that stock approximately 1,400 native plant species available for use in mine reclamation. The publication was last revised in 1995. Work on an updated edition is in progress and is expected to be completed this year.

A source of some native plants not widely publicized is the California

Department of Forestry and Fire Protection (CDF). CDF stocks a few species of containerized native plants, which can be purchased for use in mine reclamation. CDF can also contract grow a much wider variety of site-adapted container stock. State law restricts planting stock to use for specific purposes, generally all wildland uses. State nursery trees are not available for landscaping, resale, and may not be given away. Plants are available in 6-inch long containers (13 cubic inches) or 8-inch long containers (40 cubic inches). Contract production may often be in the even deeper 12 inch containers. The elongated containers accommodate a well-developed root system that encourages greater survivorship and less maintenance after planting. Bareroot stock is also available for a short time very early in the planting season.

Seedlings are available from the California Department of Forestry & Fire Protection, L.A. Moran Reforestation Center. Generally, orders should be placed October through March. The selling season is October 15 through May 1. To request an order form and to find out what species are available, contact:

California Department of Forestry
& Fire Protection
L.A. Moran Reforestation Center
P.O. Box 1590
Davis, CA 95617
(530) 753-2441

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Message from the Director

Editor's Note: In lieu of the Director's Column, we are providing this update on the new administration.

When gubernatorial elections bring a new administration to California government, changes take place not only in the governor's office, but throughout the various state agencies and departments.

At the Department of Conservation, Larry Goldzband resigned as director effective December 31, 1998. Chief Deputy Director Steve Arthur is serving as head of the department, and at press time Governor Gray Davis had yet to appoint a new director. There is, however, a new head of the Resources Agency, which includes the Department of Conservation and 18 other departments, boards, commissions and conservancies.

Governor Davis named Mary D. Nichols California's eighth secretary for resources on December 16, 1998. Secretary Nichols is the administrative head of the Resources Agency and a member of the governor's cabinet. The secretary coordinates the agency's and departments' policies, serves as the governor's representative on the agency's boards and commissions, and administers the California Environmental Quality Act. Most recently, Nichols served as

the executive director of Environment Now, a private foundation dedicated to the protection of the California environment. In 1993, she was nominated by President Clinton and confirmed by the U.S. Senate to be the United States Environmental Protection Agency's assistant administrator for air and radiation. Nichols served as a senior staff attorney and director of the Los Angeles office of the Natural Resources Defense Council from 1989 to 1993.



Mary D. Nichols

She was appointed by Governor Edmund G. Brown, Jr. to the attorney seat on the California Air Resources Board in 1975, and was named chair in 1978. She also served as secretary for environmental affairs, the cabinet-level agency responsible for air, water, and solid waste management that later became California Environmental Protection Agency.

While the new administration is reviewing all the activities and policies of its departments, the Department of Conservation will

continue to follow the policies it has had in place for some time. For the Department of Conservation's Office of Mine Reclamation, this means an ongoing dedication to achieving full compliance with the Surface Mining and Reclamation Act. Likewise, lead agencies should continue to carry out their duties in compliance with SMARA.

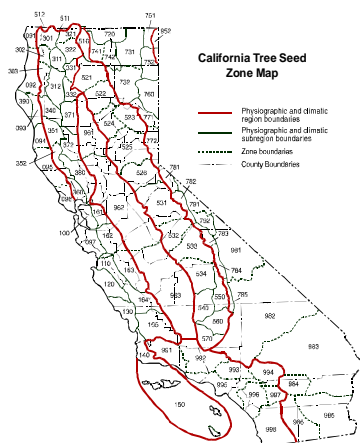
The Department of Conservation looks forward to getting a new director and to the continuation of a strong mining industry guided by effective safeguards for environmental and public health.

*Mark Oldfield,
Public Affairs Officer
Public Affairs Office*

Reclamation Tips

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CDF developed the California Tree Seed Zone Map for forestry crops; however, it is useful for all seed collecting. The map delineates zones of regional similarity. A small copy of this map is available upon request by contacting the center.



Tree Seed Zone Map

When ordering seedlings from CDF, the purchaser provides information on their planting site such as nearest town and elevation, plus county. CDF uses this information to determine the seed zone of the planting site and whether any of their stock is suitable for the site. For optimal success, revegetation efforts in a given zone should utilize seed collected in the same zone and from a similar elevation. This encourages preservation of localized genotypes and selection of locally adapted species. If local material is not available, feel free to ask for assistance in determining whether available plant materials are from ecologically similar enough seed sources for likelihood of success.

This can often be a difficult judgement call.

In addition to providing planting stock, CDF also provides advice on reforestation and wild land planting. A list of forest advisors is available by request. To aid in selecting the best species for urban applications, you can also visit the statewide urban tree selection web site "selecttree" at <http://www.ufe.calpoly.edu>. Here you can search from a database of 1,485 different trees using up to 46 selection criteria.

It is also possible to contract with CDF to clean, store, and grow-out seeds collected on a specific mine site. The contract must be in place at least one growing season in advance. The minimum requirements for a contract are 5,000 bareroot and 500 container, per species. For more information on contracting with CDF, contact the L.A. Moran Reforestation Center.

Jim Pompy,
Reclamation Manager

The Abandoned Mine Lands Unit now has a toll free number for the public to use to report abandoned mines. If you know of or find an abandoned mine please call:

1-877-OLD MINE

Entering abandoned mines is dangerous. Don't become a statistic. Remember:

Stay out and stay alive!

Executive Officer's Report

At its January 14, 1999 regular business meeting held in Sacramento, the State Mining and Geology Board took the following actions on these SMARA issues:

1. The SMGB certified new surface mining and reclamation ordinances for the lead agencies of: Alpine County, Napa County, and Placer County. These new certifications are a result of the board's program to encourage lead agencies with pre-1991 ordinances to bring their ordinances into accordance with current SMARA.

2. The board certified Mono County's Ordinance Number 98-13 enacting a chapter of the county code pertaining to the permitting requirements for new surface mining operations. The ordinance includes the rebuttable presumption that the processing with certain chemicals of mine ore poses an unreasonable risk of environmental harm.

3. The board approved a request by Glamis Rand Mining Company for an exemption from the requirements of SMARA under PRC §2714(f) for exploratory activities in Kern County. The exemption request was supported by the county. The board determined that the exploration activities would disturb only an aggregate of 15 acres spread over ten sections of federal lands. The operator provided information on reclaiming the disturbances once geologic samples had been obtained.

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Executive Officer's Report

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4. The board ordered a \$500 administrative penalty against Clear Lake Lava, Inc., Lake County, for failing to obtain a reclamation plan and financial assurances for one of its abandoned operations. The surface mine site had been inactive and "abandoned" several years earlier; however, the operator had not reclaimed the site according to an approved plan. Over the past year, the operator obtained an approved grading plan from the county, and reclaimed the site to the satisfaction of the county. The basis of the board's administrative penalty action was because the operator had failed to obtain a reclamation plan and financial assurances while the mine operated. The board also believed that the operator had not taken the initiative to reclaim the site until an administrative penalty was issued by the Department of Conservation following several department warnings.

5. Acting on a recommendation from its policy committee, the board accepted the "Fourth Report and Findings Regarding El Dorado County's SMARA Compliance." This report summarized the outstanding and continuing issues of the county's SMARA compliance that remained unaddressed or incomplete, and provided information regarding a complaint received from a residential homeowners group regarding the county's actions to permit a controversial surface mine.

6. The board, also acting on a recommendation from its policy committee, unanimously voted to issue a 45-Day Notice to Correct Deficiencies to El Dorado County pursuant to PRC §2774.4. The notice was issued following receipt of comments from the public and from the county's outside attorneys. The notice was sent to the county on February 12, 1999. The county has 45 days from receipt of the notice to correct, to the satisfaction of the board, the deficiencies stated in the notice or face possible board actions to assume some or all of the county's SMARA authority.

7. As part of a hearing in which United Rock Products Corporation has appealed to the board the inaction of the City of Irwindale to process in a timely manner reclamation plans for two of the operator's pits, the board determined that the Environmental Impact Report adopted by the City of Irwindale permitting the deepening of the two pits in question was not adequate to address the impacts of the proposed reclamation plans. The board requested its staff to determine the type and scope of environmental impact reports necessary to adequately address the proposed reclamation, and to apprise the operator of its findings.

*John Parrish, Ph.D.
Executive Officer*



Compliance Corner

SMARA Annual Inspections

Editor's Note: The following is the last of a three-part series on conducting annual SMARA inspections. This article is excerpted from the material provided at the inspection and cost estimating workshop conducted in July 1998.

Part III: Inspection Photography and Video

Photographic or video documentation of a mine site is a vital part of the mine record. A mine inspector with limited resources will truly appreciate the old saying, "a picture is worth a thousand words." Photographs and video should be used to make the inspector's job easier by requiring fewer detailed written descriptions and assisting memory recall after returning to the office. Photographs also help to fill the "memory gap" resulting from staff turnover.

Annual air photos of a site are an excellent way to document the progression of disturbed and reclaimed mine acreage. If aerial photography is not an option, photo points should be established around the site and their locations recorded on a site map. If possible, select elevated photo points as they generally allow for better viewing of the site.

As camera, film and video technology have advanced, photo
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Compliance Corner

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documentation has become easier. In most cases a relatively simple auto focus camera with a zoom lens and flash will suffice for most mine inspections. Because documentation rather than artistic quality is the purpose of the photography, versatile high-speed films can be used. For picture quality, the camera should be held steady, especially during low light conditions. Additionally, shooting into the sun, its reflection or bright lights should be avoided. In shadowy conditions, the flash can enhance foreground objects. It is also important that the scale be obvious. A picture of a sorted aggregate stockpile lacking any scale can appear to be a pile of sand. A vehicle, clipboards, pencils, lens caps, hats, and even people can all be used for scale.

Since the time and cost for conversion to and from slide and print formats continues to decrease, the choice of film format is less critical. In most cases, print film works well for individual viewing and time comparison analysis. Slide format is preferred for presentations to larger audiences.

When using a video camera with microphone, the direction of view and objects shown can be verbally described. Be cognizant of background equipment noise and wind noise however, as these may mask your verbal descriptions. It is also important to limit non-factual comments. An audio record of attitudes and opinions regarding

operations can be used to discredit the inspector. Inspectors should strive to document and record just the facts.

When possible, use a tripod for filming with a video camera and shoot with the sun behind you. For hand-held shots be sure to hold the camera firmly and assume a good posture for shooting. Use slow, deliberate movements and keep the horizontal plane level. Filming while moving or walking and using quick or jerky motions will result in a "jumpy" picture that is disorienting and difficult to watch.

To complete photo or video documentation, it is critical that prints, slides or videos be clearly labeled and logged. The following basic information should be recorded on or securely attached to the photo or tape:

Date, Photographer, Mine Site ID Number, Operator Name, Mine Name, Direction of View, Description of View, Photo Point Identifier (if applicable)

Keep in mind that photographs can be extremely persuasive to decision makers in situations where enforcement actions are necessary. Pictures of a mine can provide key evidence during important meetings or hearings. However, pictures can also benefit the mine operator. Operators should be encouraged to document any mining activity likely to be questioned by a regulatory agency or concerned citizen group. Important activities or conditions to document include:

- Pre-mining site conditions
- Topsoil handling

- Subsurface facility installations
- Backfilling and compaction operations
- Blasting operations
- Revegetation efforts
- End-of-season in-stream projects
- Final reclaimed areas
- High water flow events

Finally, photographs or video can be very helpful in instances where a lead agency needs to verify an operator has corrected a violation noted during the annual inspection. Rather than the lead agency re-inspecting the site, the operator can provide photographic documentation of the corrective action and forward it to the lead agency. This not only satisfies the lead agency's need, it also saves the operator the cost of a second inspection (which in some jurisdictions is quite substantial).

*Tim Kustic,
Principal Compliance Engineer*

Financial Assurance Tips



The deadline for using the new surety bond forms is fast approaching. When the forms were first approved by the Attorney General and adopted into regulation last July, the Department of Conservation instituted a one-year grace period to allow operators with existing bonds time to transition to the appropriate new bond form.

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Financial Assurance Tips

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This grace period will end on July 1, 1999. After this date, use of the new bond forms is mandatory for those operators wishing to utilize a surety bond to meet their financial assurance obligation under SMARA.

Operators who do not replace their existing surety bonds with the new forms or another acceptable financial assurance mechanism by the July 1st deadline will technically be out of compliance with SMARA's financial assurance requirements. Those operations might then be subject to penalties for non compliance ranging from an administrative penalty to removal from the AB 3098 List. The process to secure, review and approve a new surety bond may take up to 60 days or more, therefore we strongly urge operators to act now to make the changes necessary to their financial assurance(s) so that they will be in compliance with SMARA by July 1.

Because they are legal documents, the bond forms must be properly executed to be acceptable. Mistakes, blank spaces and incorrect or insufficient information will result in the surety bond being returned to the operator for correction or amendment. Therefore, careful preparation and review of the bond form should occur before its submittal to the lead agency. Operators should also be prepared to furnish their surety provider with their operation's permit/reclamation plan number, California Mine ID number and a formal legal description of the

mined land when requesting to update their bond.

Following is a checklist of items to help lead agencies and operators determine if a bond has been properly executed:

1. The California Mine ID number and bond number must be correctly stated at the top of each page.
2. The bond/rider form must be completely executed; blank spaces are not acceptable. If there is no third party public agency involved, insert "N/A" in the space provided (throughout the form).
3. The penal sum must be correctly stated in words and numeric figure on page one.
4. The permit/reclamation plan number(s) must be correctly stated and identical throughout the bond.
5. The lead agency must be identified throughout the bond by lining out either "City" or "County" (as appropriate) and inserting the lead agency's name (make sure it is spelled correctly).
6. A formal legal description of the disturbed area subject to the reclamation plan must be provided on page two. At a minimum, the legal description should include the parcel number(s), township, range and section number(s) and the appropriate base and meridian (i.e. SBBM or MDBM). A meets and bounds description is also acceptable and recommended if portions of the site are exempt (i.e. vested) from SMARA. For operations on federal lands, the legal description should consist of either the township, range and section number (within a quarter section of the mine location) and the appropriate base and meridian, or a meets and bounds description and the California Mine Claim number (CAMC #). If the legal description exceeds the space provided on page two of the form, insert "See Attachment A" in its place. Attach the legal description to the surety bond and label it Attachment A. Be sure to provide the California Mine ID number, bond number and page number at the top of each page of the attachment.
7. The company names of the principal and surety must be identical as identified on pages one and four of the bond form.
8. Signatures for the principal and surety must be affixed to the bond with their names and titles provided in the space below each signature block.
9. The city, state and date(s) of execution of the principal's and surety's signatures must be provided on page four (the dates of the principal's and surety's signatures need not be identical).
10. The date of the principal's and surety's acknowledgements must not pre-date the date of their signatures on the bond. The notary's commission date must not have expired.

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Reader Survey

How are we doing? Please take a few moments to provide feedback on the *SMARA Update* to assist us in evaluating opportunities for continuous improvement of this publication. Please do not confine your remarks to this survey if you have suggestions outside the scope of these questions. To complete this survey on-line, please visit our web site at <http://www.consrv.ca.gov>. We appreciate your time and guidance!

1. What do you enjoy most about the *SMARA Update*?
2. What do you like least?
3. How does the *SMARA Update* help you with your job?
4. What additional information would you like to have included in the *SMARA Update*?
5. What other mining/reclamation publications do you subscribe to? (Please list)
6. Do these other publications provide you with information superior to that in the *SMARA Update*? If so, what information?
7. Do you prefer to receive the *SMARA Update* as hard copy or would you rather receive it on-line?
8. Other Comments:

We value the opinions of our readers and look forward to hearing from you by mail, fax, or e-mail. You may send responses to the Office of Mine Reclamation, Attention: Andrew Rush, 801 K Street, M.S. 09-06, Sacramento, California 95814; fax to (916) 322-4862; or e-mail to arush@consrv.ca.gov.

Thank you for your time and interest.

Financial Assurance Tips*(Continued from page 8)*

11. The Power of Attorney must identify the name of the attorney-in-fact (the name must be spelled identically to that on the bond form). The conditions stated on the Power of Attorney must not prevent the attorney-in-fact from acting (e.g. a dollar limitation less than the penal amount of the bond). The Power of Attorney must be signed, sealed and dated at the bottom of the form with the date being identical to the date of the attorney-in-fact's signature on the bond.

Refer to the following web sites to verify if a surety company is authorized to conduct business in

California or has been approved by the U.S. Department of Treasury to issue bonds for operations on federal land:

CA Department of Insurance: www.insurance.ca.gov/docs/ldconsum.htm

U.S. Treasury Department (Circular 570): www.fms.treas.gov/c570

*Andrew Rush,
Environmental Specialist*

The *SMARA Update* is a quarterly publication of the Department of Conservation's Office of Mine Reclamation, 801 K Street, MS 09-06, Sacramento, California 95814, (916) 323-9198. Our web site address is <http://www.consrv.ca.gov/omr/index.htm>. The purpose of this publication will be that of imparting the latest in reclamation tips, as well as changes in legislation or interpretation of existing statutes by court decisions.

Chief Deputy Director: Steve Arthur
Deputy Director: Pat Meehan
Assistant Director for OMR: Glenn Stober
Newsletter Editor: Andrew Rush

Department of Conservation
OFFICE OF MINE RECLAMATION
801 K Street, MS 09-06
Sacramento, CA 95814